

**UNITED STATES DISTRICT COURT FILED**

WESTERN DISTRICT OF TEXAS  
UNITED STATES OF AMERICA

2012 AUG 16 PM 2:17

CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

V.

**CRIMINAL COMPLAINT**

Frank DelaCerde

Case Number: 1:12-m-534

I, Otho DuBoise, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about August 24th, 2011, in Austin, Travis County, in the Western District of Texas, defendant did possess with the intent to distribute Heroin, a schedule I controlled substance, in violation of Title 21 United States Code, Section 841(a)(1).

I further state that I am a Detective with the Austin Police Department and that this complaint is based on the following facts:

See Attachment. Attached Affidavit

Continued on the attached sheet and made a part hereof: ☒ YES ☐ NO



Signature of Complainant

Sworn to before me and subscribed in my presence,

8-16-2012

Date

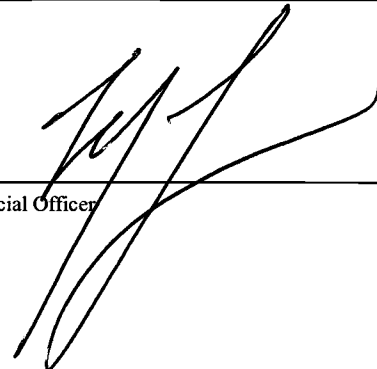
Austin, Travis County, Texas

AT

City and State

**Mark Lane**  
**United States Magistrate Judge**

Name and Title of Judicial Officer



Signature of Judicial Officer

Affidavit  
Re: Criminal Complaint of Arrest Warrant  
USA v. Frank DelaCerde

The following information is a result of my investigation

In August of 2011 I received information from a confidential informant about a subject named Frank DelaCerde, selling large amounts of heroin in the Austin area. The informant said that Frank has several "runners" working for him, and sells a lot heroin utilizing these subjects. I then spoke with Detective Green, who told me that he was familiar with Delacerda and all of his runners, and had been conducting an investigation into his organization for over a year. With the assistance of Detective Green, who already had a tracking order for DelaCerde's vehicle, we were able to locate and place a tracking device on DelaCerde's vehicle.

On August 24, 2011 I received a tip that Frank DelaCerde was going to be delivering a distributable amount of heroin in the early afternoon to a subject that lives in south Austin. After receiving this information, I checked the tracker location of DelaCerde's vehicle. The tracker showed that DelaCerde had left his residence that morning, made one stop on Ben White, and then went to an address on Buena Vista drive in Dale, Caldwell County, Texas. Detective Green recognized the street, and said that he had received a tip in the past, that said DelaCerde used a location at 265 Buena Vista Drive, in Dale, Caldwell County, Texas as a stash location. The tip said that this was Mary DelaCerde's residence, and that she was his mother.

Based on the above information, I believed that DelaCerde was at his stash location, and would be headed back to Austin, to make the deal that I received the tip about. We then attempted to intercept DelaCerde before he reached Austin. Detective Green located DelaCerde in Dale, Texas, and we followed him back to Austin. During this time, we observed DelaCerde fail to maintain a single marked lane, on Hwy 183, just south of Vargas street. Officer Krippner and Gobourn stopped DelaCerde for the traffic violation, and were granted consent to search his vehicle. During a search of the vehicle, they located two aerosol type cans, containing false bottoms. One of the cans was empty, but the other can, a compartment can designed to look like a fix a flat canister, contained at or about 305 balloons of heroin. The heroin being in balloons in large quantities is indicative of distribution. DelaCerde was taken into custody, and we then went to 265 Buena Vista to maintain surveillance on that location, until a search warrant could be obtained.

During our surveillance, we observed a vehicle bearing Texas LP BR5K131, go to the residence at 265 Buena Vista, stay for about 20 minutes, and leave again. This subject was stopped for failing to signal intent, and because they had just left a residence that we were attempting to obtain a search warrant for. The driver was identified as Mary DelaCerde, she is the sister of the suspect. She had small children and a teenage daughter in the car with her. She immediately became very uncooperative and began yelling at Officers. She also yelled at her teenage daughter to not say a thing. For the safety of everyone involved, we detained DelaCerde, and moved from the side of the dark county road, to a well lit convenience store up the street. Officer Harrell talked with the children, while I spoke with Mary DelaCerde. Harrell told me that the children said that they had gone to their grandmas house to pick up a plant. Mary DelaCerde, after being mirandized told me that the only thing she had picked up from the residence was trash. She told me that the bags were in the car, one was in the backseat where the small children had been, and one was in the front seat where her teenage daughter had been sitting. Inside the bags I located cutting agent, a grinder with heroin residue, hundreds of empty balloons, razor blades, and digital scales. She said that she had received an anonymous call telling her that her brother was arrested, and that he had told her if that ever happened, then she was to go to their mothers house and get the "trash". After locating the bags that DelaCerde directed me to, I searched the car, based on the probable cause from finding the heroin distribution paraphernalia. On the floorboard of the cars front passenger side, I located a potted plant.

Upon closer inspection, the flower pot had a hidden compartment in it. Inside this compartment I located at or about 70 grams of heroin. Delcerda claimed that her Grandmother had given her the plant at the house, to put on her mothers grave. Another vehicle arrived at the Buena Vista address, and left. This vehicle was also stopped. The driver of this vehicle was Steven DelaCerde, and the passenger was Roxanne Delapaz, the brother and daughter of the suspect. Roxanne admitted that she had received a call at the time her father was stopped, and he told her he was going to jail. She said that she spent the rest of the day trying to locate him, but when she could not find a jail record of his arrest, she assumed that the "Feds" had gotten him. She also admitted that she had talked with Mary DelaCerde during this time. This is probably the anonymous tip that Mary told me about.

Mary was taken to the Caldwell County jail, where she was interviewed on two different occasions. Once at my request, and once at her request to speak with me again. During the second interview, she admitted that she knew Frank kept drugs concealed in the pot, but she did not know what or how much, and that she was just getting rid of it. Jail calls between Roxanne and Frank were listened to by Detective Benoit. In these calls Frank tells her to go to an undetermined location and pick up something, possibly money. Roxanne also said that Mary should not have gone and picked up the stuff, that she should have let her do it, because she would have hidden it the way he showed her, and they would not have found it.

Based on the above information, I believe probable cause exists to show that Frank DelaCerde has violated Title 21 United States Code, Section 841 (a)(1) in Austin, Travis County, Western Judicial District of Texas.



Otho K. DuBoise II  
Detective  
Austin Police Department

Sworn and Subscribed to before me this 16<sup>th</sup> day of ~~August~~, 2012



~~Andrew A. Lane~~ MARK LANE  
United States Magistrate Judge